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August 14, 2009

## **VIA FEDERAL EXPRESS**

Mr. Paul Clanon  
Executive Director, Energy Division  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, California 94102-3298

Dear Mr. Clanon:

Pursuant to the Public Notice issued on August 3, 2009 – *Opportunity to Comment on the Nature of the Proposed Modifications to the California Department of Water Resources' (CDWR) Power Purchase Agreement (PPA) with Mountain View Power Partners, LLC (MVPP)* – the Alliance for Retail Markets (“AReM”) and the California Alliance for Choice in Energy Solutions (“CACES”) provide these comments.

In its letter to the California Public Utilities Commission (“Commission”) CDWR describes the proposed amendment as follows:

This amendment creates a renewable product by reattaching the Green Attributes to Energy delivered from the Mountain View I & II Wind Projects under the PPA, effective January 1, 2008 through the remainder of the term (September 20, 2011). This change allows Southern California Edison (“SCE”) to receive credit for the reattached Green Attributes for Renewable Portfolio Standards purposes.

CDWR also states:

CDWR understands that SCE incurred costs in acquiring the Renewable product and that SCE intends to submit an application to the Commission for a Replacement Agreement describing their actions.

Finally, CDWR states:

CDWR has determined that, for purposes of Water Code Section 80110(c)(5)(B), this change is not material because it is administrative in nature. CDWR agrees to the change to allow SCE to receive credit for the Green Attributes and set the stage for the Replacement agreement between SCE and MVPP.

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CDWR seeks written concurrence from the Commission that the proposed changes to the PPA which transfer the Green Attributes from MVPP to CDWR are not material because they are administrative in nature.

AReM and CACES note that, as part of the R.07-05-025 proceeding, efforts are underway to novate this PPA to SCE, that the PPA contains a provision that allows CDWR to do so on an “as is” basis, and that approval for novation from MVPP is not necessary. Therefore, it is not clear to AReM and CACES why any amendment between CDWR and MVPP is necessary when the contract could simply be novated to SCE “as is.” Once such novation is accomplished, proposed modifications to the contracts that SCE and MVPP may wish to make, including modifications to provide Green Attributes on a retroactive basis – and the cost and cost allocation issues that may go along with such modifications – could be vetted pursuant to established Commission procedure for utility procurement.

AReM and CACES do not necessarily object to the Commission’s concurrence with CDWR’s assessment that this contract amendment is administrative in nature. If the Commission determines that such concurrence should be granted, AReM and CACES request that the Commission ensure that such concurrence is consistent with an “as is” novation of the contract from CDWR to SCE.

Sincerely,



Daniel W. Douglass  
DOUGLASS & LIDDELL

Attorneys for the  
Alliance for Retail Energy Markets and  
California Alliance for Choice in Energy Solutions

cc: Jake Wise, Energy Division  
Russell C. Mills, Department of Water Resources